

REMARKS

The Examiner is thanked for the careful examination of the application. However, in view of the foregoing amendments and the remarks that follow, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejections.

Claims 1-11, 18-25, 27-41, and 43 have been rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 6,307,119, hereinafter Cammarota.

Claim 1 has been amended by incorporating the subject matter of claim 17 into it. Claim 2 has been amended by incorporating the subject matter of claim 26 into it. Claim 3 and all claims depending therefrom have been canceled.

In view of the fact that the foregoing amendments merely incorporate the subject matter of dependent claims into independent claims, the Examiner is respectfully requested to enter the foregoing amendments even though the application is after final rejection.

With regard to claims 1 and 2, the incorporation of the subject matter of claims 17 and 26, respectively, into those claims overcomes the rejection of Cammarota based on 35 U.S.C. §102(e). In fact, the Examiner has indicated that the subject matter of claims 17 and 26 is allowable. Accordingly, claims 1 and 2, and the claims that depend therefrom, should now be in condition for allowance.

With regard to claim 4, an absorbent article is recited. Among other elements, the article includes the liquid impervious backsheet as comprising a strip having a different color or tint than the remaining part of the backsheet, wherein the color or tint of the strip is an indication of the size or total absorption capacity of the

absorbent article. The Examiner has not addressed claim 4 in the outstanding Official Action. However, near the top of page 4 of the Official Action, the Examiner indicates, with respect to claim 3, that the strip 72 of Cammarota is "fully capable of indicating the size or total absorption capacity of the article." Applicant disagrees with this conclusion. Specifically, the "strip" 72 of Cammarota is a simulated fly opening. See column 16, lines 22-24. The Examiner has not provided any explanation as to how or why the simulated fly opening in Cammarota uses the color or tint as an indication of the size or total absorption capacity of the absorbent article. Applicant disagrees that the strip 72 of Cammarota uses color or tint as an indication of the size or total absorption capacity of the article.

Furthermore, it is noted that the Examiner alleges that the strip is merely fully capable of indicating the size or total absorption capacity of the article. She does not indicate that the strip does the claimed indication. However, as set forth in paragraph IV of section 2143.01 of the Manual of Patent Examining Procedure, the fact that the claimed invention is within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness. The prior art must suggest the claimed invention. Applicant submits that Cammarota does not teach or suggest that the strip 72 uses color as an indication of the size or total absorption capacity of the article.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 4 and the dependent claims that depend therefrom.

In the event that there are any questions concerning this Amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

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Date: February 28, 2007

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